

1
2 IN THE UNITED STATES BANKRUPTCY
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 IN RE:

6 Case No.:

7 19-13895-jlg

8 ORLY GENDER,

9 Debtor.

10 -----X

11
12 July 15, 2020
13 9:48 a.m.

14
15 INTERNET STREAMING EXAMINATION BEFORE
16 TRIAL of SAGI GENDER, the Non-Party Witness in
17 the above-entitled action, taken on behalf of
18 the aforementioned parties, held at the above
19 time and place, and taken before Dorene Glover,
20 a reporter and Notary Public within and for the
21 State of New York.

22
23
24
25 Job No. 181828

<p style="text-align: right;">Page 260</p> <p>1 GINGER</p> <p>2 of describing, right, should Orly decide to</p> <p>3 have it, that's appropriate you believe, right,</p> <p>4 sir?</p> <p>5 A. Yes, what's wrong with that?</p> <p>6 Q. Sir, just so we're clear --</p> <p>7 A. Maybe there's some sensibility that</p> <p>8 I'm not attuned to.</p> <p>9 Q. I know you're a caring big brother.</p> <p>10 A. I'm not saying I'm a caring big</p> <p>11 brother. I'm saying it's a matter of fact</p> <p>12 statement that --</p> <p>13 Q. I understand. I'm certain when you</p> <p>14 went over with Mr. Dellaportas you showed to be</p> <p>15 concerned, I just want to move on, sir.</p> <p>16 So, sir, the issue here is you and</p> <p>17 your mother are saying that all the \$32,300,000</p> <p>18 belongs to the Orly Genger Trust. Orly is not</p> <p>19 entitled to any of it, right, sir; that's your</p> <p>20 allegation, right?</p> <p>21 A. That's not the allegation I don't</p> <p>22 think I received the documents, but I believe</p> <p>23 this was, if I recall, this document was about</p> <p>24 money being deposited in courts. So that a</p> <p>25 proper adjudication could be made and the court</p>	<p style="text-align: right;">Page 261</p> <p>1 GINGER</p> <p>2 decided that it lack jurisdiction here, and it</p> <p>3 was dismissed.</p> <p>4 Q. Sir, let's do this, I want to move</p> <p>5 to your motion to dismiss, and sir --</p> <p>6 A. Bankruptcy --</p> <p>7 Q. Your amended and restated are not</p> <p>8 the exact term of art that you use --</p> <p>9 A. The bankruptcy.</p> <p>10 Q. I want -- let me see if I can get</p> <p>11 it on the record Mr. Genger.</p> <p>12 Judgment creditor Sagi Genger's</p> <p>13 amended and updated motion to dismiss and end</p> <p>14 or fall in support to get signed by Mr.</p> <p>15 Dellaportas, right; this is April 24th of this</p> <p>16 year, sir?</p> <p>17 A. Okay.</p> <p>18 Q. So can you go to paragraph 10,</p> <p>19 please? Paragraph 10, the last sentence, you</p> <p>20 say on April 24th of 2020, the couple share --</p> <p>21 A. Hold on for a second.</p> <p>22 Q. Mr. Genger, I want to direct your</p> <p>23 attention to the last sentence.</p> <p>24 A. Hold on. I don't see it, so, hold</p> <p>25 on a second.</p>
<p style="text-align: right;">Page 262</p> <p>1 GINGER</p> <p>2 Q. The last sentence it's right in</p> <p>3 front of you. I'll read it for you so it will</p> <p>4 make it easier.</p> <p>5 A. Your reading is different than what</p> <p>6 I'm seeing.</p> <p>7 Q. Let me see if I can get the</p> <p>8 question out before you do anything let me get</p> <p>9 the question out.</p> <p>10 A. Go ahead.</p> <p>11 Q. This document is filed on</p> <p>12 April 24th, of 2020, this year, sir.</p> <p>13 You say the couple share an Amex</p> <p>14 black card.</p> <p>15 Do you see those words, sir?</p> <p>16 A. Yeah, why would --</p> <p>17 Q. Mr. Genger listen to the question.</p> <p>18 MR. HERSCHMANN: Move to strike the</p> <p>19 answer as nonresponsive.</p> <p>20 Q. We're going to have to come back</p> <p>21 again. I suggest you wait for a question.</p> <p>22 Provide to us any evidence you have in the</p> <p>23 world as of April 24th, 2020, the couple as you</p> <p>24 say meaning Orly Genger and I share an Amex</p> <p>25 black card.</p>	<p style="text-align: right;">Page 263</p> <p>1 GINGER</p> <p>2 A. It's true on the date in which this</p> <p>3 was filed as opposed to the dates on which we</p> <p>4 got anything. I don't think we have -- I</p> <p>5 will -- I think that it's fair. I don't want</p> <p>6 John jumping out of his chair, but I think it's</p> <p>7 fair to say that we don't know that on the day</p> <p>8 we filed this that you shared that card only,</p> <p>9 that you filed it at a point -- only that you</p> <p>10 had the card together a few months earlier</p> <p>11 after both denying that the card exists. To</p> <p>12 the extent that this read is read to mean that</p> <p>13 you have a shared card on the day in which this</p> <p>14 motion is filed, I don't know that we have</p> <p>15 evidence to support that allegation. I don't</p> <p>16 think that was the intent.</p> <p>17 Q. Sir, let me ask you a question</p> <p>18 because you've used the word from my</p> <p>19 declaration of April 12th, 2019. When I said</p> <p>20 we don't share any credit cards, and that's the</p> <p>21 term that you discussed in multiple filing,</p> <p>22 you've said that statement is false, right?</p> <p>23 What evidence do you have in the</p> <p>24 world that as of April 12th, 2019, Orly Genger</p> <p>25 had any charge card associated with me</p>

<p>Page 264</p> <p>1 GENDER</p> <p>2 whatsoever?</p> <p>3 A. We had credit card statements that</p> <p>4 reflect that you shared a card. I'm not sure</p> <p>5 that we had it for that date. If it turns out</p> <p>6 that you didn't have it on that date, then I</p> <p>7 think that you have a technically accurate</p> <p>8 affidavit, but I, you know, given that Orly</p> <p>9 didn't share any credit cards at all and we</p> <p>10 found them and given that Orly Genger denied</p> <p>11 having credit cards for the previous five years</p> <p>12 that she had -- and given the fact that she</p> <p>13 denied having bank accounts, that she in fact</p> <p>14 had, I think that's the weight of the</p> <p>15 allegation stands. I really don't know on that</p> <p>16 precise day if you continued to share credit</p> <p>17 cards. And to the extent she didn't and we are</p> <p>18 technically inaccurate in that precise point</p> <p>19 then I apologize.</p> <p>20 Q. Just so you're perfectly clear on</p> <p>21 this statement, your lawyer just filed a letter</p> <p>22 with the court that said you did not subpoena</p> <p>23 American Express through the date of Orly's</p> <p>24 deposition, but the subpoena that you issued in</p> <p>25 fact, did go through the date of her deposition</p>	<p>Page 265</p> <p>1 GENDER</p> <p>2 and went through the date of my declaration.</p> <p>3 He signed it on April 29th of 2019. And the</p> <p>4 American Express records reflect that Orly</p> <p>5 didn't have a Centurion American Express card</p> <p>6 in any way associated with anyone? And in</p> <p>7 April 12th, 2019, there's no question about it,</p> <p>8 sir. So after you had made multiple</p> <p>9 allegations that claimed I committed perjury,</p> <p>10 what's the basis for the allegation since no</p> <p>11 card existed as of April 12, 2019, sir? I want</p> <p>12 you to talk about me, not anything you</p> <p>13 associate with what Orly said in her</p> <p>14 interrogatory responses. What's the basis for</p> <p>15 the allegations, sir, or are you telling us now</p> <p>16 that you're wrong?</p> <p>17 MR. DELLAPORTAS: Mr. Herschmann</p> <p>18 are you testifying? Because you went on</p> <p>19 for several minutes.</p> <p>20 MR. HERSCHMANN: Mr. Dellaportas,</p> <p>21 please do not interrupt. Please do not</p> <p>22 give a speaking objection. You</p> <p>23 understand the parameter of what the</p> <p>24 deal is. I want an answer to the</p> <p>25 question.</p>
<p>Page 266</p> <p>1 GENDER</p> <p>2 MR. DELLAPORTAS: Objection. Asked</p> <p>3 and answered. I would once again ask</p> <p>4 the witness --</p> <p>5 MR. HERSCHMANN: Do not coach the</p> <p>6 witness. Do not coach the witness on</p> <p>7 this question. I want an answer to the</p> <p>8 question.</p> <p>9 MR. DELLAPORTAS: -- on his</p> <p>10 accountability and I'm not screaming --</p> <p>11 MR. HERSCHMANN: Mr. Dellaportas,</p> <p>12 you are trying to interfere with this.</p> <p>13 You're now showing the witness</p> <p>14 information which is completely</p> <p>15 inappropriate. I want an answer to the</p> <p>16 question.</p> <p>17 BY MR. HERSCHMANN:</p> <p>18 Q. The serious allegation, Mr.</p> <p>19 Genger --</p> <p>20 A. Mr. Dellaportas never showed me</p> <p>21 information of a serious allegation he showed</p> <p>22 me nothing. I don't know what you're talking</p> <p>23 about. What's your -- it's simply not true.</p> <p>24 MR. HERSCHMANN: Mr. Dellaportas.</p> <p>25 Let's get the question answered, please.</p>	<p>Page 267</p> <p>1 GENDER</p> <p>2 A. No, I want to know right now why</p> <p>3 you think that Mr. Dellaportas showed me</p> <p>4 anything? Right now. You're accusing me -- I</p> <p>5 want to know -- this is on an record for the</p> <p>6 court. What you're doing is way off. If you</p> <p>7 have some allegation that I made is technically</p> <p>8 incorrect, God bless you, but saying that I'm</p> <p>9 somehow being coached when I'm not is wrong. I</p> <p>10 want to take minute.</p> <p>11 MR. HERSCHMANN: Let's take all</p> <p>12 take a minute to calm down. For the</p> <p>13 record let's go off the video -- Dorene,</p> <p>14 let's go on the record now, right, the</p> <p>15 video will reflect that Mr.</p> <p>16 Dellaportas made a -- I'm sorry -- the</p> <p>17 transcript will reflect that Mr.</p> <p>18 Dellaportas was making speaking</p> <p>19 objections in relationship to this,</p> <p>20 right? And then Mr. Genger looked to</p> <p>21 the left which is where Mr. Dellaportas</p> <p>22 has been sitting. All I want is an</p> <p>23 answer to the question. Mr. Dellaportas</p> <p>24 interrupted and now they've walked out</p> <p>25 of the deposition.</p>